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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,333	03/27/2002	Bernhard Hanke	CM2211MQL	1281
27752	7590	01/10/2005	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			PATTERSON, MARC A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,333

Applicant(s)

HANKE ET AL.

Examiner

Marc A Patterson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1 – 9 are objected to because of the following informalities: The meaning of the term ‘phase’ in Claim 1 is unclear because the use of the term indicates molecules having exactly the same stereochemical configuration, rather than a similar chemical configuration.

Appropriate correction is required.

2. Claim 9 objected to because of the following informalities: The phrase ‘the wrap’ has insufficient antecedent basis. Appropriate correction is required.

NEW REJECTIONS

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 4 – 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Seth et al (U.S. Patent No. 5,888,607).

With regard to Claims 1 and 4 – 9, Seth et al disclose an article and method of making the article wherein the article comprises a first element (backing layer, therefore a construction element; column 3, lines 54 – 55; Figure 1) and a second element joined to the first element (sheet of loop material; column 3, lines 50 – 51; Figure 1); the first element comprises a film web material characterized in that the film web material comprises polypropylene homopolymer

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(therefore polyolefinic and linear or branched, because it is polypropylene, and having molecules all of which exhibit a similar stereochemical configuration, because it is a homopolymer; column 8, lines 9 – 14) having an isotacticity, and therefore a [mmmm] pentad concentration, of less than 70%, which includes less than 60% (column 3, lines 50 – 54); the first and second elements are mated to form a loop patch for use in hook and loop fastening components (column 1, lines 6 – 9); the elements are used in the making of disposable absorbent articles including surgical gowns and diapers (column 1, lines 10 – 13), therefore hygienic articles used to package or wrap the human body. With regard to the claimed aspect of the article comprising a [rmm] pentad concentration below 6% and a [rrrr] pentad concentration below 6%, Seth et al do not disclose a [rmm] pentad or [rrrr] pentad; the claimed aspect of Seth et al having a [rmm] pentad concentration below 6% and a [rrrr] pentad concentration below 6% therefore reads on Seth et al because Seth et al disclose no concentration of [rmm] pentad or [rrrr] pentad.

With regard to Claims 10 – 11, the film web that is made by Seth et al is manufactured by extrusion (column 5, lines 41 – 46) and processed by orienting (column 5, lines 62 – 65); as stated above, Seth et al do not disclose a [rmm] pentad or [rrrr] pentad, therefore an arbitrary sequence of isotactic and atactic blocks is excluded; with regard to the claimed aspect of the polymer having a molecular weight within the range of 100000 to 800000 g/mol and a glass transition temperature of between –50 to 30 degrees Celsius, the film web disclosed by Seth et al has a chemical structure identical to that of the claimed invention, as discussed above, and has an identical end use, the making of disposable absorbent articles; a molecular weight within the range of 100000 to 800000 g/mol and a glass transition temperature of between –50 to 30 degrees Celsius is therefore inherent to the film web of Seth et al.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 – 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seth et al (U.S. Patent No. 5,888,607) in view of Siedle et al (U.S. Patent No. 6,265,512).

Seth et al disclose an article comprising an isotactic polypropylene as discussed above.

With regard to Claims 2 – 3, Seth et al fail to disclose a polypropylene that is stretchable and elastically extendable.

Siedle et al teach an isotactic polypropylene that is elastic, therefore stretchable and elastically extendable (column 1, lines 5 – 11), for the purpose of obtaining an isotactic polypropylene having high strength (column 10, lines 42 – 43). One of ordinary skill in the art would therefore recognize the advantage of providing for the stretchability and elastic extendability of Siedle et al in Seth et al, which is an article comprising an isotactic polypropylene, depending on the desired strength of the end product.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for an isotactic polypropylene that is stretchable and elastically extendable in Seth et al in order to obtain an isotactic polypropylene having high strength as taught by Siedle et al.

ANSWERS TO APPLICANT'S ARGUMENTS

7. Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 1 and 4 – 11 as being anticipated by Seth et al (U.S. Patent No. 5,888,607) and 35 U.S.C. 103(a) rejection of Claims 2 – 3 as being unpatentable over Seth et al (U.S. Patent No. 5,888,607) in view of Siedle et al (U.S. Patent No. 6,265,512), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Rejection Under 35 U.S.C. 102

Applicant argues, on page 6 of the remarks dated September 2, 2004, that Seth et al does not disclose [rmrm] pentad and [rrrr] pentad concentrations below 6%, as in amended Claim 1.

However, as stated above, with regard to the claimed aspect of the article comprising a [rmrm] pentad concentration below 6% and a [rrrr] pentad concentration below 6%, Seth et al do not disclose a [rmrm] pentad or [rrrr] pentad; the claimed aspect of Seth et al having a [rmrm] pentad concentration below 6% and a [rrrr] pentad concentration below 6% therefore reads on Seth et al because Seth et al disclose no concentration of [rmrm] pentad or [rrrr] pentad.

Rejection Under 35 U.S.C. 103

Applicant also argues, on page 7, that Sidle's alleged disclosure regarding the polypropylene stretchability and elasticity of isotactic polypropylene does not make up for the deficiency of Seth et al relating to the [rmrm] pentad or [rrrr] pentad concentration. However, as stated above, Seth et al do not disclose a [rmrm] pentad or [rrrr] pentad; the claimed aspect of Seth et al having a [rmrm] pentad concentration below 6% and a [rrrr] pentad concentration

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below 6% therefore reads on Seth et al because Seth et al disclose no concentration of [rmm] pentad or [rrrr] pentad.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (571) 272 – 1497. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (571) 272 – 1498. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217 – 9197 (toll – free).

Marc A. Patterson, PhD.

Marc Patterson
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Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

1/5/05